DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)
ERICA ALLEN, ESQ. (SBN 234922)(ela@lindelaw.net)
AREN KAVCIOGLU, ESQ. (SBN 221992 (ak@lindelaw.net)
THE LINDE LAW FIRM
9000 Sunset Boulevard, Ste. 1025
Los Angeles, California 90069
(310) 203-9333; (310) 203-9233 FAX

Attorneys for Plaintiffs,
GLEN E. FRIEDMAN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

GLEN E. FRIEDMAN,	)	Case No. CV10-0014 DDP (JCx)
	)	Honorable Dean D. Pregerson
Plaintiffs,	)	
	)	**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL PRODUCTION ON REQUEST FOR PRODUCTION NO. 34**
v.	)	
THIERRY GUETTA a/k/a MR. BRAINWASH; and DOES 1 though 10, inclusive,	)	
	)	**[DISCOVERY MATTER – LR 37-1]**
Defendants.	)	
	)	Date: February 8, 2011
	)	Time: 9:30 a.m.
______________________________	)	Courtroom: 20, 3rd Floor

Plaintiff Glen E. Friedman t("Plaintiff") hereby submits the following Supplemental Memorandum in support of his Motion to Compel on Request for Production No. 34 against Defendant Thierry Guetta ("Defendant").

Defendant admitted that that he used Plaintiff's Run DMC image to promote his art show. Plaintiff is thus entitled to seek as indirect profits all profits earned by Defendant as a result of the show. *Frank Music Corp. v. Metro-Goldwyn-Mayer, Inc.*, (Frank Music I), 772 F. 2d 505, 517 (9th Cir. 1985), and *Frank Music Corp. v. Metro-Goldwyn-Mayer, Inc.*, (Frank Music II), 886 F. 2d 1545, 1548 n.2 (9th Cir. 1989). Defendant's sales records from the show are thus directly relevant to Plaintiff's claims in this case.

Defendant refuses to produce the sales records on two grounds.

Defendant first argues, without citing any authority, that Plaintiff must establish a prima facie case to indirect profits before obtaining the sales records. Defendant is plainly wrong. "A party does not have to prove a prima facie case to justify a request which appears reasonably calculated to lead to the discovery of admissible evidence." *Hammond v. Lowe's Home Ctrs., Inc.*, 216 F.R.D. 666, 670 (D. Kan. 2003). Request No. 34 is reasonably calculated to lead to discovery of relevant evidence. Accordingly, Defendant's argument has no merit. Moreover, Plaintiff has offered compelling evidence showing that Defendant used the subject image to promote his show. Plaintiff is entitled to the sales records from the show. Defendant should be ordered to provide the sales records.

Second, Defendant argues that the records are protected by a right to privacy. To the extent Defendant truly has privacy concerns, it should have sought a protective order. An entry of a protective order is sufficient to alleviate Defendnat's privacy concerns. *Beal v. Marsh & McLennan Cos. Pers. Accident Ins. Plan*, 2010 U.S. Dist. LEXIS 135864 (C.D. Cal. Dec. 3, 2010) ("to the extent Defendant raises privacy objections to the discovery requests in issue, such objections are overruled in light of the protective order issued below.") Defendaht, however, failed to do so. Instead, it merely objected and refused to provide the records. Moreover, Defendant has failed to cite any case supporting his position that the sales records are protected by a right to privacy. Finally, "the resolution of a privacy objection requires a balancing of the need for the particular information against the privacy right asserted." Here, given the relevance of the information in the sales records to the issues of damages in this case, the privacy objection should be overruled.

.

Dated: January 25, 2011

THE LINDE LAW FIRM

By: /s/ Erica L. Allen
Douglas A. Linde
Erica L. Allen
Aren Kavcioglu
Attorneys for Plaintiff
GLEN E. FRIEDMAN